

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

Midas Green Technologies, LLC,

Plaintiff,

- vs. -

**Rhodium Enterprises, Inc.;
Rhodium Technologies LLC;
Rhodium 10mw LLC;
Rhodium 2.0 LLC;
Rhodium 30mw LLC;
Rhodium Encore LLC;
Rhodium Renewables LLC;
Rhodium Renewables Sub LLC;
Rhodium Ready Ventures LLC**

Defendants.

Civil Action No. 6:22-cv-00050-ADA

Jury Trial Demanded

PLAINTIFF'S UNOPPOSED NOTICE TO THE COURT OF PETITION
TO CORRECT PATENT-IN-SUIT

I. INTRODUCTION

Plaintiff Midas Green Technologies, LLC has petitioned the United States Patent and Trademark Office (“USPTO”) to make the patent correction indicated below to one of the two patents asserted in this pending infringement case. The purpose of this filing is to comply with the USPTO’s requirement that Midas notify the Court of this petition and to request this Court’s confirmation that it does not object to the USPTO making a decision on Midas’ petition during the pendency of the case. As reflected in the certificate of conference, plaintiff’s counsel has conferred with counsel for defendant with respect to this notice and it is not opposed.

II. CORRECTION OF CLAIM TO PRIORITY

In this matter Midas has asserted claims from two patents: U.S. Patent 10,405,457 (the “‘457 patent”) and U.S. Patent 10,820,446 (the “‘446 patent”). The ‘457 patent properly claims priority to provisional applications 61/737,200 and 61/832,211. However, although the ‘446 is properly identified as a continuation of the ‘457, it was inadvertently filed to only claim priority to the ‘211 provisional. To correct this error, Midas filed a Petition to Correct Unintentionally Delayed Priority Claim with the U.S. Patent and Trademark Office (the “USPTO”) to add a claim of priority to the ‘200 provisional. As required, Midas alerted the USPTO it had asserted both the ‘457 and ‘446 patents in this Court.

The USPTO responded that in order for it to complete its evaluation of the Petition, Midas is required (1) to alert the Court that the Petition has been filed with the USPTO, and (2) to confirm that the Court does not object to the USPTO issuing a decision on the Petition. (*See* Exhibit A, which is the request from the USPTO). Midas requests that the Court sign the Proposed Order, which would permit Midas to continue working with the USPTO to receive a decision from the USPTO on its Petition.

DATED: May 23, 2023

Respectfully submitted,

/s/ Michael C. Smith

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Counsel for Plaintiff
Midas Green Technologies, LLC

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who have appeared electronically in this case are being served with this document on May 23, 2023 by way of the primary email address that said counsel supplied to the Court's CM/ECF system.

/s/ Michael C. Smith
Michael C. Smith

CERTIFICATE OF CONFERENCE

Plaintiff's counsel conferred with counsel for defendant with respect to this notice and the relief requested therein, and defendants do not object to the filing.

/s/ Michael C. Smith
Michael C. Smith